

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 27, 2009
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: May 15, 2009

RE: Closed Session of the Board to be held on May 27, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. PARADISO MECHANICAL, INC., 06-R1D5-5033
2. VEDA A. & JOHN R. TRONSKE DBA SPECIAL T'S SHEETMETAL, 07-R3D3-4096 AND 4097

ORDERS OF ADMINISTRATIVE LAW JUDGES:

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(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ADVANCE MODULAR TECHNOLOGY, INC., 08-R1D2-2169
2. AEROJET EAST LOS ANGELES OPERATIONS – A GENCORP COMPANY, 08-R4D2-4591 THROUGH 4593
3. ALCAL/ARCADE CONTRACTING, INC., 08-R1D5-1706 AND 1707
4. ALCAL/ARCADE CONTRACTING, INC., 08-R1D5-1956
5. AMBERFIELD, INC. DBA BROOKS STREET BAKERY, 08-R3D3-2387 THROUGH 2389
6. AMERICAN WRECKING, INC., 08-R4D1-4264
7. ANGELES WELDING AND MANUFACTURING, INC., 08-R4D1-1372
8. ARBOR BUILDING GROUP, INC., 07-R1D3-3861 AND 3862
9. ARROW LUMBER, INC., 08-R6D2-5155 THROUGH 5160
10. ASSOCIATED READY MIXED CONCRETE, INC., 08-R3D5-2397 THROUGH 2399
11. AWARD CONSTRUCTION, 07-R2D5-3131 AND 3132
12. BLACKHORSE BUILDERS, INC., 08-R1D5-2097
13. CANYON RIDGE CONTRACTOR COLTON, 08-R4D4-2334 THROUGH 2336
14. CEMAK TRUCKING, INC., 08-R3D5-2400 THROUGH 2402
15. CHINCHIOLO-STEMILT CALIFORNIA, LLC., 08-R6D3-2208 THROUGH 2215
16. CITY OF LONG BEACH POLICE DEPARTMENT, 09-R3D5-0416 and 0417
17. COMBO ALUMINUM PRODUCTS, INC., 09-R6D2-0422 THROUGH 0426
18. CORNERSTONE STAFFING SOLUTIONS, INC., 08-R4D4-1911 AND 1912

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19. COVE BUILDERS, INC., 06-R3D5-3920
20. CRANE AEROSPACE & ELECTRONICS DBA HYDRO-AIRE, INC., 08-R4D3-3749
21. DS WATERS OF AMERICA, INC., 08-R1D2-1695
22. E & A PALLET, INC., 08-R6D2-4838 THROUGH 4844
23. EAGLE MARINE SERVICES, LTD., 08-R6D2-4306
24. ELBECO DBA TRANSCON MANUFACTURER, 09-R4D1-0125 THROUGH 0127
25. EXEL, INC., 08-R1D4-1825
26. EXPRESS CHIPPING, 08-R4D4-2205
27. FLASH ELECTRIC, INC., 08-R4D2-5031 AND 5032
28. S.R. FREEMAN, INC., 08-R1D2-3617 AND 3618
29. L. F. GEORGE CONSTRUCTION CORP., 08-R1D1-0361 THROUGH 0363
30. HAILWOOD, INC. DBA CHASE BROS. DAIRY, 08-R6D2-4141 THROUGH 4147
31. HANSEN COLD STORAGE CONSTRUCTION, 08-R4D3-3538 THROUGH 3540
32. HAPPY HOME BUILDERS, 08-R1D4-1490
33. KEN HATCH, 08-R4D4-2449 THROUGH 2451
34. JOSE GUILLERMO HERRERA DBA PROGRESS FARM LABOR CON., 08-R4D3-3807 AND 3808
35. HERRON CONSTRUCTION, INC., 08-R4D4-2331
36. INTERSTATE BRANDS CORP., 08-R4D1-1624 AND 1625
37. J.E. CABINETS, INC., 08-R6D2-4649 THROUGH 4655
38. KIRILL SEMENOV DBA PACIFIC WINDOW WASHING, 07-R1D1-4796
39. KRYOCERA TYCOM CORPORATION, 09-R3D1-1233

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40. L & R PALLETS, INC., 08-R6D2-1090 THROUGH 1093
41. LARGO CONCRETE, INC., 08-R3D1-4518
42. LAUSD – HUNTINGTON PARK SENIOR HIGH SCHOOL, 09-R4D2-0128
43. MALCOLM DRILLING CO., INC., 08-R3D1-4287
44. MARIN SANITARY SERVICE, 08-R1D5-1572
45. MIRANT CALIFORNIA, LLC., 08-R2D2-2063 THROUGH 2066
46. MJH BUILDERS, INC., 09-R4D1-0046 AND 0047
47. NORDSTROM, 08-R1D4-0228
48. PADILLA CONSTRUCTION, 07-R1D2-2811 THROUGH 2816
49. PETALUMA ACQUISITION, LLC DBA PETALUMA POULTRY, 08-R1D5-2040
THROUGH 2042
50. PETALUMA HIGH SCHOOL DISTRICT, 09-R1D5-0261
51. FRANK P. PETRILLI & SON, INC., 08-R6D5-4876
52. PRO PACKING, INC., 08-R3D5-2326 AND 2327
53. MARIO PULIDO DBA PULIDO FARMS, 08-R6D5-3849
54. RAIN TREE ENTERPRISES QUEEN MARY, INC., 08-R3D5-4897 THROUGH
4899
55. W. A. RASIC CONSTRUCTION CO., INC., 09-R4D2-0146
56. SAQ PALLETS, INC., 08-R4D1-5029 AND 5030
57. SEVEN BROTHERS FLC., 08-R6D5-3753
58. MARION R. SHANKS, BUILDER, 08-R1D2-1951
59. SHEA KENNY JV, 08-R5D3-2362
60. SLAKEY BROTHERS, INC., 07-R2D4-4659 AND 4660

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- 61. JOSE SOTO, 08-R4D2-5042 THROUGH 5046
- 62. SWK PROPERTIES, LLC., 08-R3D1-4177 AND 4178
- 63. TELEDYNE MEC., 08-R2D1-1304
- 64. TITLE NINE, 08-R2D2-1305
- 65. TOMATOES EXTRAORDINAIRE DBA SPECIALTY PRODUCE, 09-R3D2-1066
- 66. TRI-STATE STAFFING, 08-R4D5-3110 THROUGH 3112
- 67. TROPICALE FOODS, INC., 08-R6D2-4379 THROUGH 4382
- 68. GARY TSCHANTZ & SONS CONSTRUCTION, INC., 08-R6D5-3812 THROUGH
3816
- 69. U C LOS ANGELES WESTWOOD, 09-R4D1-0108
- 70. UPS, 08-R3D3-2049 THROUGH 2051
- 71. URS CORPORATION, 08-R4D2-4634 AND 4635
- 72. VALLEY IRON FABRICATORS-ERECTORS, INC. 08-R6D2-1086 THROUGH
1089
- 73. VENTURA CAR WASH, INC., 08-R6D5-0250 AND 0251
- 74. VERIZON COMMUNICATIONS, INC., 08-R3D3-2554
- 75. WILKEY SHEET METAL, INC., 07-R2D4-4086 AND 4087
- 76. WILKEY SHEET METAL, INC., 07-R2D4-4088
- 77. L.H. WOODS & SONS, INC., 08-R3D2-4953
- 78. WRIGHT DESIGN AND BUILD CO., 08-R3D2-4519 AND 09-R3D2-1357

ORDER ON REMAND

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1. BHANDAL BROS. TRUCKING, INC., 09-R6D1-9060

ORDERS DISMISSING APPEALS

1. BEAR VALLEY FRAMING, INC., 08-R3D3-2390
2. EL MONTE SCHOOL DISTRICT, FRANK M. WRIGHT, 08-R4D4-2288
3. GURUBEL CONSTRUCTION, INC., 08-R4D2-4133
4. RAFAEL SALAS RIVIERA DBA RSR CONSTRUCTION, 06-R4D4-5208
THROUGH 5210
5. S J & B GROUP, INC., 08-R3D3-2316 THROUGH 2319

ORDER DENYING LATE APPEAL

DOLE PACKAGED FOODS, LLC., 09-R3D4-9093

STIPULATIONS

1. FOUR SEASONS CONTRACTING, INC., 08-R2D2-5034 AND 5035
2. WAWONA FROZEN FOODS, 07-R2D5-1536 AND 1537

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ALMANOR MANUFACURING, INC., 07-R2D3-0146 THROUGH 0148
2. ALBERT ARMENTO, 08-R3D1-1282 THROUGH 1284
3. CALIFORNIA DAIRIES, INC., 07-R6D2-2076 THROUGH 2081
4. MELMAT, INC., 07-R3D1-0733
5. UPS, 08-R3D3-2049 THROUGH 2051
6. VINKKHA KITCHEN, DOORS & CABINETS, 07-R4D1-9525
7. WEBCOR CONSTRUCTION, LP DBA WEBCOR BUILDERS, 07-R1D1-5150

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS)

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1. DANIEL L. ELLISON DBA AUBURN CONCRETE PUMPING & MATERIAL
BELTING, 07-R2D1-2507 AND 2508

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AC FRAMERS INC., 03-R2D3-3475
3. AC TRANSIT, 08-R1D4-0135
4. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
5. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION,
7. ASC PROFILES, INC., 06-R2D1-1181
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
13. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
14. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
15. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
16. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
17. CALIFORNIA FRESH FARMS, 06-R2D4-4127
18. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378

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19. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
20. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
21. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
22. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
23. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
24. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
25. DESIGN BUILDERS, INC., 08-R4D4-1901
26. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
27. DUKE PACIFIC, INC., 08-R3D3-574
28. DYNALECTRIC, 03-R1D1-4101
29. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
30. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
31. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
32. FORTUNA IRON WORKS 06-R2D3-4222
33. G.T. ALDERMAN, INC., 05-R4D3-3513
34. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
35. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
36. GLASS PAK, 03-R2D2-750 AND 751
37. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
38. HB PARKCO, 07-R4D2-1730 AND 1731
39. HELPMATES STAFFING SERVICES, 05-R3D3-2239
40. THE HERRICK CORP., 07-R3D1-495
41. HUSSMAN CORPORATION, 03-R3D1-2939

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42. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
43. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
44. JENSEN PRECAST, 05-R2D1-2377
45. JOHN LAING HOMES, 04-R3D1-194 AND 195
46. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
47. KELLY SERVICES, INC., 06-R1D2-1024
48. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
49. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
50. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
51. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
52. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
53. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
54. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
55. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
56. & M INDUSTRIES, 04-R1D5-1597
57. PMR RACE CARS, 03-R3D3-1825
58. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
59. R & L BROSAMER, INC., 03-R1D5-4832
60. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
61. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
62. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
63. STACY & WITBECK, INC., 05-R1D1-1142
64. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688

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THROUGH 1692

65. DAVID STOUPAKAS DBA DEVORE TRUCKING & AUTO WRECKING, 07-

R3D3-5185 AND 5186

66. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986

67. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT

AGGREGATES, 04-R5D2-850 AND 851

68. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650

AND 2651

69. TEICHERT AGGREGATES, 04-R5D1-2982

70. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH

4980

71. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557

72. UNITED PARCEL SERVICE, 07-R3D3-3322

73. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

74. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)

2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)

3. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)

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4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. SOUTHERN CALIFORNIA EDISON COMPANY v CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
14. KFM AND DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, RG 09442652 (06-2452)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.